

SEP 31 10 2

**TEXANS FOR RUDY IZZARD
P.O. BOX 2992
ABILENE, TX 79604**

F. Andrew Turley
Supervisor Attorney - Central Enforcement Docket
Federal Election Commission
Washington, DC 20463

RE: MUR 4807

September 28, 1998

Dear Mr. Turley:

ON behalf of Dr. Rudy Izzard; the Texans for Rudy Izzard Campaign Committee; Izzard for Congress-96 Committee; Mr. Steve Stephens of San Angelo, Texas; Dr. Dale McDonald of San Angelo, Texas; Mr. Chester Upham of Mineral Wells, Texas; Mr. Harry Bettis of Graham, Texas; and the Paxon for Congress Committee of Victor, New York; and myself, Freddy L. Moore, Campaign Treasurer; the following statement is intended to serve as the true and complete testimony in regards to MUR 4807.

Section 1: Excessive Contributions

The Federal Election Campaign Act limits a Federal candidate to accepting \$1,000 per election from an individual contributor. In the four instances below, each of the contributors had designated their contributions be attributed to themselves and their spouse. Documentation verifying that this was indeed the intent of each of these contributors is enclosed as Exhibit A.

- Steve Stephens, San Angelo. \$1,000 contribution on November 2, 1997 for the primary election; \$1,000 contribution for the general election received on November 30, 1997. \$1,000 contribution on June 22, 1998 for the general election should have been attributed to Mrs. Steve Stephens.
- Chester Upham, Mineral Wells. \$1,000 on October 23, 1997 for the primary election; \$2,000 contribution on June 18, 1998 should have been attributed to both Mr. Chester Upham and Mrs. Virginia Upham for the general election. It was designated this way on the original check.

- H.M. "Harry" Bettis, Graham. \$1,000 on June 5, 1998 for the general election. \$100 on June 30, 1998 should have been attributed to Mrs. Jean Bettis for the general election.
- Dale McDonald, San Angelo. \$1,000 on November 5, 1997 attributed to the primary election. \$250 on January 30, 1998 should have been attributed to Mrs. Ellen McDonald for the primary election.
- Paxon for Congress. \$1,035.19 was an in-kind contribution which was mistakenly interpreted as a contribution from a Multi-Candidate Political Action Committee (in which case the legal limit would have been \$5,000 per election). Because after further research it was discovered that this contribution was not made by Congressman Paxon's Leadership PAC, the Empire Majority Leadership Fund, and was instead made by his individual committee, the campaign will refund the Paxon for Congress committee \$35.19 so that the contribution will be in compliance with the Federal Election Campaign Act (2 U.S.C. Section 441a(a)(1)(A) (1998).

Section 2: Failure to File 48-Hour Notices

As documented in the complaint, the Texans for Rudy Izzard committee did file a 48-hour notice as required by the act. The two contributions that were not reported as a part of this notice--\$1,000 from Nina Hendee on March 1, 1998 and \$1,000 from Sue Walden on March 1, 1998 were both in-kind contributions. In other words, these contributions were assigned value that was expended on the day they were received.

The contribution in question from Sue Walden was originally intended as a campaign bill. Ms. Walden had helped us run a fundraiser and we were going to pay her \$1,000 for her services. Several days after the fundraiser, Ms. Walden kindly informed the campaign that it did not need to pay for her services. In turn, the \$1,000 value was deemed an in-kind contribution to the campaign but was not recognized as such until after the 48-hour reporting period.

The contribution from Mrs. Nina Hendee was from a fundraiser held at her home on March 1. The campaign did not document the amount of the in-kind contribution until it was preparing the March 31st report. Therefore, the campaign was unaware that her contribution would be of an amount that would need to be reported on the 48 hour notice until after the 48 hour notice reporting date had passed.

There was no intent on the part of the campaign to hide these contributions. They were fully disclosed on the March quarterly report. The campaign respects the nature and purpose of this special, last-minute reporting requirement. And, had Rudy Izzard been contested in the March primary, the argument could be made that this information might have influenced voters. But, because Dr. Izzard was uncontested in the Republican

primary, there were not and can not be any tangible repercussions of this legitimate reporting delay.
(Exhibit B)

Section 3: Late Campaign Reports

The Izzard for Congress-96 Committee did indeed file the 30-Day Post-Election Report and the 1996 Year End Report late.

Due to many factors these reports were filed late. The FEC was notified of the problems and worked with the Committee as the Committee attempted to re-gather contributor data and researched additional information that was needed in order to complete these filings. These reports, while filed late, were complete and accurate. And, the campaign treasurer remained in constant contact with Todd Schumacher of the FEC. The FEC did not take any legal action against the campaign at that time because they were kept fully informed of the Committee's progress and the process the Committee was using to complete these reports.

As a point of clarification, these reports were reports of the Izzard for Congress-96 Committee. The 1998 committee, Texans for Rudy Izzard, has filed all of its reports on time.

Section 4: Undisclosed Corporate Contributions

Finally, allegations made that the Izzard campaign attempted to mask a corporate contribution under the guise of the sale of a trailer are completely unfounded and preposterous.

In regards to the sale of a trailer on November 4, 1996 to Guthrie Trailers of Brownwood, the trailer was the property of Rudy Izzard, and not the property of the Izzard for Congress-96 Campaign Committee. Thus, in an attempt to fully disclose funding sources during the final days of the 1996 campaign, the Committee incorrectly listed the sale of the trailer. Instead, the Committee should have only listed the \$1,250 as an additional personal contribution from the candidate. These types of contributions are completely legal under 11 CFR Section 110.10 (a).

Exhibit C will show that on May 7, 1996, Dr. Rudy Izzard, DDS purchased a trailer from Guthrie Trailers of Brownwood, Texas. The check to purchase this trailer, numbered 1699 for \$1700 was written on the account of the First National Bank, Ballinger, Texas for the purchase of trailer in question.

On November 4, 1996, Dr. Izzard re-sold the trailer to Guthrie Trailers, and then contributed the \$1,250 sale revenues as a personal contribution to his campaign.

Conclusion

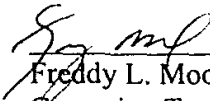
As the above statements prove, the Izzard for Congress-96 Committee and the Texans for Rudy Izzard Committee have attempted to comply with all FEC laws and regulations.

As is clearly exhibited, each of the questioned "excessive contributions" have a simple and acceptable explanation that is compliant with FEC law. Each of the contributors in question has individually verified the mis-allocations on the part of the Committee.

Additional exhibits and information provided in this response will prove that there is no substantial evidence or grounds on which to seek further action against the Izzard Committees.

As always, we appreciate the opportunity to clarify these simple clerical recording errors by way of amendment, as allowed by federal regulations. We attempt to comply fully with all FEC reporting requirements and appreciate your help in this endeavor.

Sincerely,


Freddy L. Moore
Campaign Treasurer

7/28/98
Date

Pollyanna Stephens

Rudy Izzard Campaign
P.O. Box 2992
Abilene, TX 79604

Dear Rudy,

The contribution made to
your campaign on June 22, 1998
for \$1,000.00 should have been
attributed to me. Thanks
for correcting it.

Sincerely,

Pollyanna Stephens

5401 Woodbine

San Angelo, TX 76904

0193 193 110 66

Exhibit
A

Jean Bettis

Dear Mr. Moose,

This note is to verify
that my \$100 contribution
to the Rudy Szyard cam-
paign on June 30, 1998 was
improperly attributed to
my husband.

Yours truly,

Jean S. Bettis
(Mrs. Harry M. Bettis)

Sep. 28, 1998

6x0bit B

From: EddHendee@aol.com
Date: Sun, 15 Mar 1998 16:42:29 EDT
To: hdt.izzard@abilene.com
Subject: Itemized expenses for Newt Gingrich event - 3/1/98
X-Mailer: AOL 4.0 for Windows 95 sub 167

Heather,

As discussed here is a listing of expenses incurred in hosting the Newt
Gingrich/Rudy Izzard Reception on March 1, 1998 at our home at 7 Radney
Estates in Houston, Texas:

Date: March 1, 1998

Attendance: 32 guests, 8 congressional and campaign staff, 2 speakers

\$35 Cleaning & yard prep in advance of event
\$200 Ice carving, flowers, decor for event
\$125 Valet Services
\$220 Security for event - off duty officer representing the property owner
\$420 Food & beverage costs (\$10 pp) including staff

Glad to have you and your staff at our home.

Mrs. Nina Hendee

11:30:00 AM 3/15/98

Exhibit C

RUDY IZZARD, D.D.S.
SWANN MEDICAL BUILDING
BALLINGER, TEXAS 76821
TELEPHONE (915) 365-2583

FIRST NATIONAL BANK
P.O. BOX 680
BALLINGER, TEXAS 76821

88-258/1113

No. 1699

PAY seventeen thousand & 00/100 DOLLARS

TO THE ORDER OF Guthrie Trailer Sales

DISC	DATE	CHECK NO	AMOUNT
	5/7-96	1699	1700

RUDY IZZARD, D.D.S.

PAID

R. Izzard / NHB

Exhibit A

Chester R. Upham, Jr.

SENT VIA CERTIFIED MAIL Z 443 401 669

September 22, 1998

Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Attention: Mr. F. Andrew Turley

Re: MUR4807

Dear Mr. Turley:

I received your letter dated September 17, 1998 today and I spoke to Ms. Jennifer H. Boyt this afternoon.

I am a native born citizen of the United States. My wife, Virginia Frances (Lee) Upham is a native born citizen of the United States. We were married December 16, 1946 and have lived together in the United States for 52 years. We have never applied for citizenship in another country. Virginia and I have a joint checking account styled Chester R. Upham, Jr. It is used by both of us for business and personal purposes and both of us are authorized to sign checks on this joint account.

Enclosed you will find a copy of check number 012460 dated June 16, 1998 referred to on page 2 of the complaint by The Honorable Martin Frost, Texas Chairman of the Democratic Congressional Campaign Committee, signed by his executive director, Matthew Angle. Please note on the voucher portion of the check it clearly sets out "Political Contribution for General Election", Virginia Lee Upham - \$1,000 and Chester R. Upham, Jr. - \$1,000.

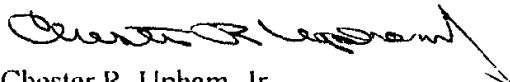
I am also enclosing a copy of check number 012047 dated October 23, 1997 which is also set out in Mr. Frost's and Mr. Angele's complaint. Because the check voucher only designated "Political Contribution" it is reasonable to designate this as a contribution by me for the Primary Election.

After examining the enclosures and reviewing my explanation, I would appreciate your letter response confirming that there is no violation of the Federal Election Laws with respect to these contributions.

Office of the General Counsel
September 22, 1998
Page 2

Although your letter directed me to submit my response to you within 15 days, I am submitting it within 1 day. I trust you will extend the same courtesy and respond to this letter within 15 days.

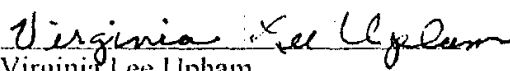
Very truly yours,

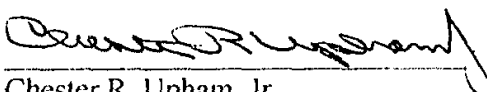

Chester R. Upham, Jr.

CRUjr/sb

Enc.

In accordance with the instructions of your letter, we, Virginia Lee Upham and Chester R. Upham, Jr. swear that the information offered in this letter is true and correct and the copies of the enclosures are true and correct.



Virginia Lee Upham


Chester R. Upham, Jr.

STATE OF TEXAS
COUNTY OF PALO PINTO

This instrument was acknowledged before me on September 22, 1998 by
Virginia Lee Upham and Chester R. Upham, Jr.




Notary Public, State of Texas
My Commission Expires: 1-31-2000

CHESTER R. UPHAM, JR.

P.O. BOX 910

MINERAL WELLS, TEXAS 76068

No. 012460 DB-1942
1119

PAY \$2,000.00

DATE	AMOUNT
6/16/98	\$ 2,000.00

Rudy Izzard for Congress

CHESTER R. UPHAM, JR.

NON-NEGOTIABLE

THE CITY NATIONAL BANK
MINERAL WELLS, TEXAS

⑈012460⑈ ⑆111917433⑆ ⑆01 9088 ⑈

THIS VOUCHER IN FULL PAYMENT OF ACCOUNT AS SHOWN BELOW. IF NOT CORRECT, RETURN WITHOUT ALTERATION FOR CORRECTION.

COVERING: Political Contribution for General Election

Virginia Lee Upham	\$1,000.00
Chester R. Upham, Jr.	\$1,000.00

DETACH

COPY

TO WHOM IT MAY CONCERN

FROM: ELLEN McDONALD

Thank-you,
Ellen McDonald
Ellen McDonald

September 24, 1998

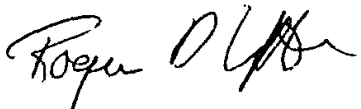
Texas for Rudy Izzard
P.O. Box 2992
Abilene, Texas 79604

Re: Paxon for Congress in-kind contribution

Treasurer,

It has been brought to our attention by the Federal Election Commission that our May 21, 1998 in-kind contribution of \$1,035.19 for the general election has exceeded the allowed limitation of \$1,000. If you have primary election debt, it is our understanding that the excess \$35.19 can be applied to help pay the debt. If this is correct, please send us evidence of your debt so that we can satisfy the Commission's query. If you cannot apply the overpayment to the debt, please send us a refund of \$35.19 as soon as possible. Please call if you have any questions regarding this.

Respectfully,



Roger d. Upton, Treasurer
Paxon for Congress

cc: Federal Election Commission

103 40 66



RUDY IZZARD FOR CONGRESS P.O. BOX 2992 ABILENE, TX 79604-2992		88-112/1113 01801638801	1477
DATE <u>Sept. 28, 1998</u>			
PAY TO THE ORDER OF <u>Paxon for Congress</u>		\$ <u>35.19/100</u>	
<u>thirty-five dollars And nineteen/hundredths</u>		DOLLARS 	
 FIRST NATIONAL BANK of Abilene P.O. Box 701 • Abilene, Texas 79604		<u>Spather D. Munner</u>	
MEMO <u>Refund</u>			
⑆ 1 1 1 3 0 1 1 2 2 ⑆ 1 4 7 7 ⑆ 0 1 8 0 1 6 3 8 8 0 1 ⑆			

Exhibit B

Goto Page # [] Next Page Last Page

TO REPORTS INDEX NEW SEARCH NEW ADVANCED SEARCH

MAR- 9-98 MON 17:48 ARMSTRONG BACKUS FAX NO. 8156555857 P.01

48 HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED
(State Reporting Date for Public Access)

To be used to report all contributions (including loans) of \$500 or more, received within 48 days of the election.
1. Name of CONTRIBUTOR or PAIR

THX905 For Rudy Ezzeard
P.O. Box 2992
Arlington, TX 76010
Arlington, Texas 76010
Rudy Ezzeard TX 117

2. Full Name/Address/Zip Code

600308890

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date received, day, year	Amount
David A. Hartman 1717 W. 6th St. 110 Austin, TX 78703	Self Employed	2/27/98	1,000.00
Donald R. McNeill 11900 Old Katy Rd Houston, TX 77079	Don McNeill Toyota Owner	3/1/98	1,000.00
Edna C. Hendrix T Rodney Estates Houston, TX 77024	State of Texas	2/2/98	1,000.00
Chase Untermeyer P.O. Box 692000 Houston, TX 77269	Compag Computer	3/6/98	1,000.00
Mr. Coorb 3307 Winding Lake Way Katy, TX 77705	Coorb Business Ltd	3/1/98	1,000.00

Signature (Required) 3/9/98
For further information contact:
Federal Election Commission
444 E Street, NW, Washington, DC 20542
Tel: (202) 456-4522, Local (202) 456-3438

FEC FORM 6
(11/93)

P. 12

Please Forward This To The Manufacturer

1. NAME OF COMPANY OR INDIVIDUAL

— **THE** —

U.S. GOVERNMENT PRINTING OFFICE: 1967 O 344-100

Any information supplied to the above Parents and Guardians may not be used in furthering any purpose of the program or in making recommendations or for any other purpose other than what was stated and used for at the original submission of said information. This is not negotiable.

THE UNIVERSITY OF CHICAGO

L 00030 9890

(11/23)